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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 9, 2001

APPLICATION OF

VIRGINIA ELECTRIC AND
POWER COMPANY

CASE NO. PUE000584

For approval of a
Functional Separation Plan
under the Virginia
Electric Utility
Restructuring Act

ORDER DENYING MOTION

The Virginia Cable Telecommunications Association ("VCTA") filed on July 19, 2001, a Motion to Compel ("Motion to Compel") Virginia Electric and Power Company ("Virginia Power" or the "Company") to respond to certain discovery requests propounded by the VCTA. On July 25, 2001, Virginia Power filed a Response objecting to the data requests on the grounds, among other reasons, that the information requested is irrelevant to the proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

On August 1, 2001, by Hearing Examiner's Ruling, VCTA's Motion to Compel was granted, and the Company was directed to provide the data requested within five business days. The Company, on August 3, 2001, filed an Exception to Ruling and Motion for Stay and Certification ("Exception and Motion for

Stay") requesting, pursuant to Rule 5 VAC-20-120.B of the Commission's Rules of Practice and Procedure, a stay of the August 1, 2001 Ruling and further requesting certification of this matter to the Commission for review.¹ On August 6, VCTA filed a Response opposing the Company's Exception and Motion for Stay. On August 7, 2001, the Hearing Examiner by Ruling denied the Company's Exception and Motion for Stay and directed the Company to provide the data requested by VCTA by 5:00 p.m. on August 9, 2001.

Subsequent to the Hearing Examiner's ruling of August 7, 2001, the VCTA filed a Motion for an Extension of the Time for Filing Its Comments ("Motion for Extension") on August 7, 2001, requesting the Commission to extend the date for filing its comments in this proceeding to August 29, 2001 or later. In its Motion for Extension, the VCTA referenced the Hearing Examiner's August 7, 2001 Ruling, and the Company's required deadline for responding to VCTA's data requests of August 9, 2001. In its motion, VCTA stated that it was "not confident that Virginia Power will furnish the requested data or that it will furnish responsive and meaningful data," and VCTA

¹Rule 5 VAC 5-20-120.B states, in relevant part, that "upon the motion of any party or the staff, or upon the hearing examiner's own initiative, the hearing examiner may certify any other material issue to the commission for its consideration and resolution."

indicated that it might need to file a second set of interrogatories to the Company's responses.

Thus, VCTA's request for extension is based on its assumption that Virginia Power will not respond as required by the Hearing Examiner's directive and the Commission's Rules of Practice and Procedure. We cannot now grant VCTA's motion based on that assumption. We expect Virginia Power will provide the data VCTA requests in a timely manner, and that it will provide complete responses to VCTA's interrogatories.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion that VCTA's Motion for Extension should be denied without prejudice. We note that interested persons (including VCTA) may file comments in this proceeding by August 15, 2001. Thus, VCTA is not precluded from renewing its motion herein following its receipt of the Company's responses due August 9, 2001.

ACCORDINGLY, IT IS ORDERED THAT VCTA's Motion for an Extension of the Time for Filing its Comments is denied without prejudice.